THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.16974 of 1999

ORAL ORDER:

This writ petition is filed challenging the award made in I.D.No.251 of 1992 dated 7.7.1994 on the file of first respondent-Labour Court.

Petitioner is workman and second respondent is management. It appears, petitioner was Conductor in respondent-Corporation. On 29.3.1991, while he was conducting the Bus bearing No.AEZ-3184 on route Allagadda to Maddikera, a check was exercised by the checking officials at stage No.27. According to the petitioner, though there were no irregularities committed by him, the checking officials foisted false cases against him and basing on the same, he was issued with charge sheet. Petitioner submitted explanation to the said charge sheet. After conducting a detailed enquiry, petitioner was removed from service. Challenging the same, petitioner raised a dispute under Section 2-A(2) of the Industrial Disputes Act, 1947 before the first respondent-Labour Court. It was his case that neither the enquiry was properly conducted nor there was any evidence to show that the charges are proved and the findings recorded by the enquiry officer as well as the disciplinary authority are contrary to the evidence on record. The respondent-management filed a detailed counter denying the allegations made by the petitioner and asserting that fair and proper opportunity was given to the petitioner to defend his case. The charges are very grave in nature and they have been proved, therefore, there was no other option except to remove the petitioner from service. After a detailed consideration of the matter, the Labour Court came to the conclusion that the enquiry conducted by the management was proper and valid

and that the charges are proved, therefore, held that the petitioner does not deserve any relief and dismissed the I.D. by order dated 7.7.1994. Aggrieved by the same, the present writ petition is filed.

The first charge against the petitioner is that he failed to collect fare and issue tickets to (7) individual passengers and two chargeable children, who boarded the Bus at ex-stage No.26-Gooty and bound for Guntakal i.e. ex-stage No.33 and check was exercised at stage No.27 i.e. at immediate next stage. It is not the case of management that the petitioner having collected money did not issue tickets. It is an admitted fact that the petitioner neither collected nor issued tickets within one fare stage. Charge Nos.2 and 3 are related to some sort of insubordination on the part of the petitioner. It appears, all the (70) passengers in the Bus revolted against TTI since the TTI addressed them as 'sheeps' when they refused to give statement against the conductor. The passengers, particularly in rural areas may not speak against the conductor. Therefore, I am of the opinion that may be, there is some thing which can be attributed against the petitioner, but that does not mean that ultimate punishment of removal could have been imposed on a conductor who is very young and comes altogether from a different background. The management could have given one more opportunity to the petitioner to correct himself. Instead, straightaway, petitioner was imposed with punishment of removal from service. The Labour Court also failed to take these into consideration and simply confirmed the order passed by the disciplinary authority without exercising the powers vested under Section 11-A of the I.D. Act. I am of the opinion that assuming that the charges are proved, punishment of removal from service is shockingly disproportionate to that of the misconduct alleged against the petitioner. Therefore, to meet the ends of justice, I deem it appropriate to modify the impugned

Award granting relief of reinstatement with continuity of service, but without any backwages and without any attendant benefits. As such, award of the Labour Court is liable to be modified to the following effect.

> "In the result, the respondent-management is directed to reinstate the petitioner into service with continuity of service, but without any backwages and without any attendant benefits. The continuity of service shall be counted only for the purpose of terminal benefits and not for other benefits, such as seniority etc."

With the above modification, the writ petition is disposed of.

No order as to costs.

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C.V.RAMULU,
J

Date: 19.12.2007

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THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.16974 of 1999

19.12.2007

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.16974 of 1999

Date: 19th December, 2007

Between:

S.M.Sanjeeva Naik

.. Petitioner

And

Industrial Tribunal-cum-Labour Court,
Ananthapur district, rep. by its Presiding Officer,
& another.

.. Respondents